

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
ALBANY DIVISION

KENNETH CARDWELL,

Plaintiff,

VS.

DR. DWAYNE AYERS, and  
LINDA BRIDGES,

Defendants.

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CIVIL ACTION FILE NO.  
**1: 06-CV-31 (WLS)**

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**RECOMMENDATION**

Presently pending in this *pro se* prisoner §1983 action is defendants' motion to dismiss the complaint for failure to exhaust administrative remedies (doc. 28).

Subsequent to filing this motion, defendants filed a motion for summary judgment (doc. 42), which also incorporates the issue regarding exhaustion of administrative remedies. In light of the fact that there is currently pending a more comprehensive motion for summary judgment, it is the RECOMMENDATION of the undersigned that defendants' motion to dismiss be **DENIED** without prejudice, and that the issue of exhaustion be determined in conjunction with the motion for summary judgment.

Pursuant to 28 U.S.C. § 636(b)(1), the parties may file written objections to this recommendation with the Honorable W. Louis Sands, United States District Judge, WITHIN TEN (10) DAYS of receipt thereof.

**SO RECOMMENDED**, this 3<sup>rd</sup> day of August, 2007.

//S Richard L. Hodge  
RICHARD L. HODGE  
UNITED STATES MAGISTRATE JUDGE

msd